



December 18, 2000

Ms. Marie Dolores Cordova
City Secretary
City of Jourdanton
1220 Simmons Avenue
Jourdanton, Texas 78026

OR2000-4730

Dear Ms. Cordova:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 142512.

The City of Jourdanton (the "city") received a request for information regarding the fines for violations of certain city ordinances, all police reports from August 18, 2000 to September 20, 2000, information concerning an incident involving Daniel Brady, and complaints made against five named persons. The city has asserted no exceptions under the Public Information Act (the "act") to withhold the requested information.

If a governmental body wishes to withhold from public disclosure information that has been requested, then it must ask for a decision from the attorney general and raise the applicable exceptions within ten business day after the governmental body receives the written request for information. Gov't Code § 552.301(a), (b). This office did not receive the city's request for a decision within the ten business day period mandated by section 552.301(a). The city received the request for information on September 29, 2000, but the city's request for a decision was postmarked October 16, 2000. Moreover, the city has failed to comply with section 552.301 by its failure to state the exceptions that apply to withhold the information from public disclosure.

Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. The city also failed to submit to this office copies or representative samples of the specific information that was requested.

The requested information is presumed to be public information when a governmental body does not comply with section 552.301. Gov't Code § 552.302. In order to overcome the presumption that the requested information is public information, a governmental body must provide compelling reasons why the information should not be disclosed. *Id.*; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ); see Open Records Decision No. 630 (1994). You have not raised any specific compelling reasons to overcome the presumption that the information is public. Thus, we conclude that the information must be released to the requestor. We caution that the distribution of confidential information constitutes a criminal offense. Gov't Code § 552.352.

For future reference, if the city needs assistance in complying with the act, the city may contact the Open Government Hotline, which is staffed by personnel trained to answer questions about the act. The Hotline may be reached toll free at (877) 673-6839.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'Yen-Ha Le', is written over the typed name.

Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/er

Ref: ID# 142512

cc: Ms. Deborah Brady
913 Cypress
Jourdanton, Texas 78026